

### Rotation in the council - bringing citizens closer to the EU?

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Sarah Seeger

# Rotation in the Council – Bringing Citizens Closer to the EU?

Sarah Seeger is a research fellow at the Center for Applied Policy Research (C·A·P). This paper was presented at the symposium “Whither the EU’s Shared Leadership? (Re)Assessing the Value of the European Union Council Presidency in the context of the 2007 IGC“, European Studies Centre, Oxford, October 10/11, 2007. It was developed within the project “Greater Europe” that the Bertelsmann Foundation jointly conducts with the C·A·P.

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# Contents

Abstract	4
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1. Legitimacy in the European Union	4
2. The Rotating Council Presidency – Combining Intergovernmental, Supranational and Social Legitimacy Elements	6
3. Reforming the Council Presidency – Changes for the Better?	8
4. Benefiting from the Room for Manoeuvre	10
5. Blame it All on the Council Presidency?	12
<hr/>	
Notes	13

## Abstract<sup>1</sup>

The new “Lisbon Treaty”, which was tied up at the Intergovernmental Conference (IGC) 2007 and which shall enter into force in January 2009, seeks to rebalance the institutional structure of the European Union (EU) and thereby to recalibrate the EU’s various sources of legitimacy. A central goal is to reduce the “EU-citizens gap” and thus to enhance the EU’s supranational and social legitimacy. This paper examines the impact the reforms might have on one of the most influential actors of the European Union – the EU Council Presidency – and its ability to link the EU closer to its citizens. The concept of second-order legitimacy will be applied as a framework for the analysis. It will be argued that the Lisbon Treaty provides room for manoeuvre that would enable the Council Presidency to strengthen the ties between the EU and the European citizenry. However, due to the Council’s functional logic, this margin is clearly limited.

## 1. Legitimacy in the European Union

Which legitimacy?

After the negative outcome of the constitutional referenda in France and the Netherlands in spring 2005, the democracy and legitimacy deficit of the European Union has been at the centre of debates among academics as well as practitioners dealing with the EU. The forceful “Non” and “Nee” of the French and Dutch voters were viewed as a symbol of citizens’ alienation from the European Union and exposed the often-cited “EU-citizens gap”. The new “Lisbon Treaty”, which was tied up at the Intergovernmental Conference (IGC) 2007, seeks to rebalance the institutional structure of the European Union and thereby to recalibrate the EU’s various sources of legitimacy in order to strengthen its supranational and social legitimacy.<sup>2</sup>

There is a wide range of legitimacy concepts, which is even more diverse when it comes to assessing legitimacy at the international or supranational level. National legitimacy paradigms apply only partly to international organisations, as institutions and processes do not correspond to those known in the national arena. This has become particularly clear with regard to the European Union, which has often been described as a political entity *sui generis*. A variety of analytical paradigms have been put forward to explain how the EU ensures its legitimacy, depending on the particular theoretical approach towards the process of European integration.<sup>3</sup>

- The *output legitimacy paradigm* posits that the Union achieves legitimacy through its problem-solving capacity. Thus this approach focuses on outcomes from the EU political system, and the regulatory capacity of the European institutions, to measure legitimacy.<sup>4</sup> Or as Føllesdal describes it, the EU can enhance its legitimacy from this perspective “when it identifies and implements solutions, securing goals that would otherwise be unattainable.”<sup>5</sup> To ensure a high output, technocratic and regulatory bodies are created which act independently from their principals, the respective national governments.
- The *intergovernmental legitimacy paradigm* is closely connected to the legitimacy concept of Andrew Moravcsik. In this perspective, states as rational and interest-driven actors delegate competences to the supranational level to resolve problems they would otherwise not be able to solve. At the same time, national actors retain control of all relevant decision-making processes.<sup>6</sup> In other words, actors at the supranational level are clearly bound to an imperative mandate provided

by their principals, the respective national governments. As such, the EU is legitimised through the legitimacy of the Member States, which the latter derive from their respective electorates. To avoid a situation where the ability to control decisions is blurred, voting occurs through unanimity, and each Member State counts as equal.

- According to the *supranational legitimacy paradigm*, democratic legitimacy in the EU would require the further development of EU institutions along the lines of the political systems of the Member States. From this perspective, the main obstacles to enhanced European democracy are the limited role of the European Parliament, particularly its lack of the right of legislative initiative; the Commission's and Council's lack of direct democratic accountability; the weak representation of citizens; and the lack of intermediary structures. A fully supranationally legitimised European Union would imply that citizens are fully able to contest European politics.
- Drawing on Easton's work on the diffuse support of citizens for a political system,<sup>7</sup> more recent academic research on the EU has elaborated the concept of *social legitimacy*.<sup>8</sup> Thalmaier conceives of social legitimacy as the demos' ability to legitimate a political system.<sup>9</sup> As Maier and Risse argue, "modern democracies rely upon the diffuse support of their citizens in order to gain legitimacy, which is necessary to ensure compliance with inconvenient and costly norms and rules. Collective identification with a polity provides an important source of diffuse support for political systems. The normative desirability and the empirical possibility of a collective European identity are thus directly linked to the issue of the democratic or legitimacy deficit of the European Union".<sup>10</sup> The existence of a well-functioning public sphere<sup>11</sup> as well as the personalisation and visibility of politics play a crucial role in this concept.

In general, there has been a perceptible shift from largely technocratic and state-centred concepts of legitimacy towards more citizen-centred legitimacy concepts. The need to involve citizens in European decision-making processes has developed from both a normative perspective as well as from a pragmatic point of view as more and more decisions will depend upon a popular vote. Therefore, strategies to enhance supranational and social legitimacy have increased in importance. However, crucial elements for establishing a European Union that enjoys social legitimacy, such as a well-functioning European public sphere, are still not fully developed. In the near term, the European Union will remain a political entity *sui generis* that features both intergovernmental and supranational elements as well as social legitimacy elements and depoliticised regulatory and output-oriented elements. As Hurrelmann argues, "none of [the legitimacy concepts] suffices on its own to legitimate the EU in its present institutional shape, nor to sketch a convincing blueprint of how the EU could be reformed to make it more legitimate. [...] For this reason, most analysts of European politics – and also most politicians participating in the constitutional debate – would probably agree that the EU can only base its legitimacy on a combination of the different strategies."<sup>12</sup> This approach of combining different strategies can involve both the application of different legitimacy concepts *to different institutions* (e.g. supranational and social legitimacy to the European Parliament, output legitimacy to the European Commission, and intergovernmental legitimacy to the Council) as well as the application of more than one paradigm *to one single institution*.<sup>13</sup>

Shift to a citizen-centred view

Overcoming legitimacy  
trade-offs

However, the issue of how to calibrate the various legitimacy sources within the institutional system of the EU has given rise to highly contested debates, because the application of various concepts may involve trade-offs.<sup>14</sup> For example, enhancing the European Parliament's role in the legislative process would involve strengthening the supranational element while weakening the intergovernmental pillar by limiting the Council's role as dominant legislator. Additionally, strengthening instruments of participation could hinder efficient policy output. Nevertheless, it is not impossible to balance the different concepts, to establish positive-sum instead of zero-sum relationships and thereby to strengthen supranational and social legitimacy even if elements of intergovernmental and output legitimacy play a crucial role in European politics. As Hurrelmann proposes, trade-offs can be overcome by taking into consideration *second-order legitimacy relationships*,<sup>15</sup> which he conceives of as "relationships between different legitimacy strategies".<sup>16</sup> The EU Treaties offer room for manoeuvre in various fields. Change can be achieved without a greater re-design of the institutional balance of the EU. Legitimacy relationships both between the institutions and within specific institutions can be intensified and thus contribute to an overall improvement of legitimacy in the EU.

## 2. The Rotating Council Presidency – Combining Intergovernmental, Supranational and Social Legitimacy Elements

Shared leadership

The rotating Presidency – which under the existing Treaties applies to both the European Council and the Council of Ministers – has a long tradition in European politics. Even in the early days of the European Coal and Steel Community, rotation was introduced as a fundamental component of European politics. Regardless of size, population or economic influence, every Member State has the right to chair the Union for a clearly defined period of time. The principle of rotation and shared leadership seeks to guarantee the equality of each Member State while simultaneously enabling coherence and co-ordination. In other words, this principle strives to establish a balance between the minimisation and concentration of agenda-setting powers, and the need for both leadership and sovereign equality among Member States.

Legitimacy hybrid

The Council of Ministers can be considered a hybrid between predominant intergovernmental elements and lesser supranational elements. This ambiguity is reflected in both the institution's structure as well as its functions and tasks. Recent developments and changes in particular indicate that the Council is shifting from a purely intergovernmental towards a more supranational structure. The expansion of policy fields in which decisions are taken under qualified majority voting (QMV), together with the formation of coalitions based on cleavages of left/right or large/small, demonstrates that the myth of states as dominant and equivalent actors no longer holds. Furthermore, especially the Council Secretariat and Coreper have developed in an increasingly supranational direction. As Lewis argues, socialising effects on the permanent representatives facilitate supranational elements much more than the Council's intergovernmental structure might suggest.<sup>17</sup>

As regards the Council Presidency, the *formal* functions and tasks also reveal supranational aspects which have been depicted in various publications.<sup>18</sup> Especially the principle of neutrality as a central characteristic of the Presidency serves the purpose of the community, i.e. the supranational idea. It applies to the Presidency's duties such as organising everyday work, brokering between different interests, promoting the integration process and representing the Union in external affairs and in relation to other EU institutions.

Nevertheless, the Council – particularly the Council Presidency – is far from being a fully developed supranational entity. Disagreements during the Convention about how to redesign the Presidency, together with the powerful determination of smaller Member States to maintain the system of equal rotation instead of establishing a continuous presidency as it will be the case in the European Council if the Lisbon Treaty enters into force, provide empirical support for the thesis that national governments still play a strong role in EU policymaking – and that they are eager to defend this role. As newer research has shown, this becomes particularly clear regarding the *informal* functions of the Presidency. The power of the chair and national-level issues and interests have a much greater impact than hitherto assumed.<sup>19</sup> Even if the bulk of each Presidency's work is path-dependent on previous decisions as well as on external shocks, domestic political priorities can be put on the agenda and thus find their way into the Union's work programme. The very fact that each state has the opportunity to chair the Council for a six-month period within a regular system of rotation enables individual Member States to put their national preferences on the table and, depending on the Presidency's resources and capabilities, to place these issues successfully on the EU agenda. According to Tallberg, it is precisely the knowledge that each country will have its turn to chair the Council and to influence the Union's policymaking in accordance with its own national interests and priorities that makes other Member States accept the "exploitation of the Presidency office".<sup>20</sup>

Exploiting the Presidency?

The prominent role of the Presidency has given rise to criticism, which is directed primarily towards the tendency of national governments to promote their own pet projects rather than common European goals. However, even though the Council Presidency, as it is currently practised, embodies the risk that the Council chair may focus on national priorities and interests, the risk that the Council Presidency will dominate EU institutions and policymaking is rather minimal. This is because each Member State is in a non-presiding situation for the vast majority of the time; therefore the strategy of pursuing national interests in an overly blatant manner invites the danger of being marginalised immediately after a Member State relinquishes the helm of the Council. Furthermore, despite the expansion of QMV in recent treaty reforms, Council decisions frequently involve broad compromises among the Member States. Particularistic interests and minority positions cannot overrule the majority of Council members. Thus national interests that stray too far from the general European consensus are unlikely to enjoy success in the Council decision-making process. The risk of being dominated by the country holding the chair is therefore low.

Rather, the temporary transfer of leadership enhances the potential for a diverse and rich agenda. From the very outset, the process of European integration has been driven forward by the forces of diversity and plurality. The wide range of policies dealt with at the European level cannot be explained without taking different national traditions and preferences into account. The mutual learning and reciprocity that this entails promotes efficiency and progress. Furthermore, the experience of holding the EU Presidency for a clearly defined period of time may, to a certain degree, increase public support for the EU in each respective Member State that chairs the Council.<sup>21</sup> Promoting and representing national interests during its Presidency can demonstrate the Member State's capacity to influence European policymaking. Taking this line of analysis one step further, one could argue that when a Member State visibly demonstrates to its own electorate its ability to actively shape EU policymaking, this can make it more difficult for national governments to claim that

Reciprocity...



Brussels is ruled by anonymous technocrats. Rather, the Presidency provides support for the argument that governments can make a difference in EU policymaking.

...and socialisation

These findings touch upon a function of the Council Presidency that is often mentioned in scholarly literature: the institution's capacity to convey European politics to citizens<sup>22</sup> or, as Hayes-Renshaw and Wallace put it, the Presidency's "socialisation effect on national citizens"<sup>23</sup>. Paradoxically, it is the principle of intergovernmentalism and equality embodied by the system of rotation, which in terms of second-order legitimacy can foster social legitimacy and a sense of ownership of European politics. When a particular country holds the Presidency, public awareness of European affairs is generally very high in that Member State. The heads of state and government attract a high level of attention as European actors. Informal ministerial meetings are organised in their respective country, delegations from other Member States visit the national government and ministries, cultural events deal with Europe and European politics, ministers and members of parliament place greater emphasis on European politics than is the "usual" order of political business, and public debate is structured more prominently around European issues. Even if national topics still dominate public debate, the impressions and opinions of other Member States also influence national discussions. Thus the Council Presidency can serve to make European politics more public. Even if this falls far short of creating a well-functioning European public sphere, it is clear that such processes foster cross-border awareness and transnational communication. This can lay the ground for facilitating similar patterns of thinking among Europeans. As a result, Europeans might recognise each other as legitimate members of a common European space of communication and identification, which is a central requirement for social legitimacy.

Taking all of these factors into consideration, it is essential to analyse how the provisions of the new Lisbon Treaty regarding the reform of the Council Presidency will serve to bring citizens closer to the European Union. Stated more generally: How will the planned reforms foster supranational and social legitimacy?

### 3. Reforming the Council Presidency – Changes for the Better?

The Laeken agenda

When the Laeken agenda was drafted for the purpose of strengthening the institutional architecture and democratic nature of the European Union, two of its main goals involved reforming how the Council and the Council Presidency function. While various reform proposals had already been submitted and put into effect since the early 1990s without significant Treaty amendments,<sup>24</sup> the Convention and the subsequent Intergovernmental Conference in 2003/2004 sought to enact deep-seated reforms<sup>25</sup> to the Council of Ministers and the European Council as well as to the inter-institutional distribution of power. Points of discussion from earlier debates over Council reform emerged once again, and even grew in significance, as the EU faced the largest round of enlargement in its history and the Council's capacity to function effectively was at stake.<sup>26</sup> The EU's increasingly unwieldy agenda and rising number of Member States presented obstacles to effective management, policy-making and institutional functioning. As a result, more and more of the EU's everyday work was delegated to the European Council, which itself was increasingly confronted with the inability of performing its assigned tasks as leader of the European Union.

In addition to the issues of Council voting mechanisms, the streamlining of the Council secretariat, the design of Council formations and the lack of transparency of

Council meetings, the rotating Presidency was also at the centre of the debates. Even in an EU of 15 Member States, the concept of rotation was called into question because each Member State was forced to wait seven years between Presidency terms. Thus an EU of 27 Member States and more would give rise to rotation “ad absurdum”<sup>27</sup>. Critics stated that governments were likely to lose any motivation to assume a leadership role over 26 or more other governments if they had to wait at least 13 years between Presidency terms. Furthermore, it was argued that, in a club of 27 or more members, new and small Member States in particular would be overburdened by the amount of work the Council Presidency would entail.<sup>28</sup>

The compromise set forth in the new Lisbon Treaty – which was carried over from the Constitutional Treaty<sup>29</sup> – reflects the intention to maintain a balance between the traditional elements of the Council – i.e. intergovernmentalism as well as supranationalism. By splitting the Presidency of the European Council and the Presidency of the Council of Ministers, a “differentiated presidency”<sup>30</sup> is designed to foster leadership, coherence and continuity by simultaneously maintaining the principle of shared power. According to the new Treaty of the European Union (nTEU)<sup>31</sup>, the future President of the European Council will be in office for a term of 2.5 years (renewable for one additional term, Art. 9b nTEU) and might thereby strengthen supranational social legitimacy elements within the European Council.<sup>32</sup> At the same time, the half-yearly rotation within the Council of Ministers will be retained, which will preserve the intergovernmental character of the institution (Art. 9c nTEU). However, apart from the Foreign Affairs Council, which will be chaired by the newly introduced High Representative of the Union for Foreign Affairs and Security Policy, the formations of the Council of Ministers will be headed by a Team Presidency. As it is laid down in the provisions of the Lisbon Treaty, the Team Presidency will encompass three Member States for a period of 18 months.<sup>33</sup> According to the *Declaration on Article 9c(9) regarding a Draft European Decision of the European Council on the Exercise of the Presidency of the Council*, which is attached to the nTEU, the team forming the Presidency “shall be made up on a basis of equal rotation among the Member States, taking into account their diversity and geographical balance between the Union.” This thereby strengthens the idea of linking consecutive Presidencies, a notion that had already been developed at the 2002 European Council in Seville<sup>34</sup> and further elaborated in the Council’s Rules of Procedure in 2006<sup>35</sup>. Hence more emphasis is placed on the principles of shared leadership and supranational co-ordination while there is less focus on the intergovernmental equality of each Member State.

Creating a “differentiated presidency”

However, it is doubtful whether the proposed reforms relating to the functioning of the Council Presidency will entail changes for the better, especially with regard to the Presidency’s ability to bridge the gap between the Union and its citizens. Several consequences are likely to undermine the Presidency’s capacity to foster citizens identification with the European Union:

Weak points of the reforms

- With a permanent chair of the European Council, the relevance of the Council of Ministers and its Presidency are likely to be diminished as the respective head of state or government will lose its leading role. This might affect citizens’ feeling of ownership of the EU. Thus, the Council Presidency might be weakened as a link between the Union and its citizens, even if the principle of rotation is preserved.
- It is unclear which role the head of state or government of the country holding the rotating Presidency of the Council of Ministers will play during the meetings of the European Council. Hitherto, the European Council provides the respective

government with a great opportunity to present himself as an influential European actor. The Lisbon Treaty does not foresee any exceptional role for the head of state or government of the country holding the Presidency of the Council of Ministers. Thus, the visibility of the respective country will be significantly diminished.

- Furthermore, confusion may arise over the distribution of tasks and duties. The proposed provisions also lack precision regarding accountability and responsibility. This might lead to a substantial loss of transparency. Instead of providing the citizens with personalities with clearly defined competences and responsibilities, a highly complex structure of different actors will be set up, if the Lisbon Treaty enters into force. The effects on the Union as a coherent actor might rather be negligible or even counterproductive.
- In particular, the Council of Ministers Presidency's task of acting as a representative toward third countries in matters involving foreign, security and defence policy (together with the High Representative and the Commission President, who complete the so-called *troika*) will be significantly restricted. If the Lisbon Treaty enters into force, the High Representative of the Union for Foreign Affairs and Security Policy (Art. 9d nTEU), together with the President of the European Council, will be the Union's leading external actors. One of the most visible functions of the government holding the Presidency of the Council of Ministers will therefore be relinquished if the Lisbon Treaty is ratified.

#### 4. Benefiting from the Room for Manoeuvre

Improvement without  
further institutional reform

It would appear unrealistic to implement radical changes to the provisions formulated in the Lisbon Treaty. This means taking the new institutional architecture of leading actors as a given – i.e. the President of the European Council, the High Representative of the Union for Foreign Affairs and Security Policy, the President of the Commission, the President of the European Parliament and the rotating Presidency of the Council of Ministers. We should therefore focus our attention on those points where room for interpretation and manoeuvre remains:

- The declaration on Article 9c(9) nTEU would maintain the rotation principle even if Team Presidencies are introduced. The declaration states that "Each member of the group shall in turn chair for a six-month period all configurations of the Council, with the exception of the Foreign Affairs configuration." It seems unlikely in the near future that Member States will draw upon the provision according to which "the members of the team may decide alternative arrangements among themselves." The principle of Team Presidencies has been in force *de facto* since the 2002 European Council in Seville and *de jure* since January 1st, 2007. However, as we have witnessed so far, even if national governments are urged to coordinate their working programs and everyday work, little will change: the respective national government holding the Presidency will remain much more visible than its team members and will have enough space to develop its own profile and present itself to a broad public audience.
- Furthermore, the idea of creating teams by its nature can serve to bring Europe closer to the citizens and facilitate a European sense of belonging. If the countries sharing the Presidency act as a team rather than as consecutive and separate pre-

sidencies, the EU's uniqueness as an entity of co-operation and compromise will be underscored. According to the principle of "diversity and geographical balance within the Union", the acting team would represent the variety and plurality of the Union and thus reflect the nature of European politics. This allows for a situation where the government holding the Presidency can shape its own profile on the one hand, while the idea of commonly shared tasks and cooperation can be highlighted on the other. However, this will depend strongly on how Member States coordinate their actions. Therefore, it will be of utmost importance that countries jointly chairing the EU are able and willing to share responsibility and leadership. A situation of unhealthy competition should be avoided in which the acting Presidency seeks to push through as much as possible and to enjoy its "place in the sun"<sup>36</sup> since its next Presidency term will remain far in the future.

- Much will depend on the personality of the first President of the European Council. The heads of state and government should elect their chair according to the principle of neutrality and its ability to act as a broker among Member State interests. Less priority should be placed on the components of strong leadership and prominence. Thereby, the President could fulfil its task as manager of the European Council and as organiser and chair of European Council meetings without interfering too deeply in day-to-day business. Furthermore, this approach would also minimise the likelihood of competition with the High Representative and the President of the Commission. It would also enable the rotating Presidency to develop a strong profile in the eyes of its national public as well as the European public in general.
- According to the provisions of the Lisbon Treaty, the European Council meetings will be prepared by the President of the European Council, the General Affairs Council (GAC) and the Commission. Furthermore, since the Treaty states that the Member State holding the Presidency of the GAC will also chair Coreper and the preparatory bodies, the rotating Presidency will still be of considerable importance in the future.<sup>37</sup> A strong role of the respective head of state or government, in particular in political questions, should be taken into consideration, even if it is the ministers of the country holding the rotating Presidency who chair the different Council formations. This should be communicated to the respective domestic audience as well as to the general European public.
- It is the acting Presidency of the Council of Ministers who will conduct all relevant inter-institutional negotiations on behalf of the Council. Particularly in light of the increased use of the co-decision procedure, relations with the European Parliament will become increasingly important. Therefore, the role of the acting Presidency as a link to the European Parliament should be further strengthened. By making this function of the rotating Presidency visible to European citizens, the logic of how European policymaking is conducted, how decisions are taken and how power is distributed across the different institutions could be made clear and thereby enhance transparency.
- Since 2003, European Council meetings have taken place in Brussels, apart from some informal meetings.<sup>38</sup> European policymakers should consider holding at least one of the two meetings normally held during the six-month Presidency term in the Member State that holds the Presidency. This would ensure greater public attention and media coverage in that Member State as well as in other EU countries. Furthermore, the geographic and cultural variety of Europe would

become apparent as the respective meeting venues are likely to draw high media coverage. As regards the role of the head of state or government whose country holds the rotating Presidency, a model of co-chairing the European Councils should be taken into consideration.

- Visibility towards the national publics can be enhanced by strengthening the ties between the Presidency of the Council of Ministers and the respective national parliament. This could trigger socialisation effects between the European and the national level. Furthermore, it could stimulate debates about European topics in domestic arenas and thus rising awareness of European issues among citizens.
- Finally, the acting Presidency can strengthen its profile by making use of information and communication instruments and technologies. By organising meetings, events or parties during their Presidencies, national governments can create platforms for presenting their own ideas, interests and achievements as well as EU-related topics to national and European public audiences. The Presidency logo, slogan and website can make the EU more visible to citizens in their everyday lives.<sup>39</sup> Although the Presidency's public relations efforts require additional costs and resources, these efforts provide a crucial opportunity that allows the Presidency to make its mark on everyday European politics.

## 5. Blame it All on the Council Presidency?

In this paper I have analysed the principle of rotation – as it applies to the Presidency of the Council of Ministers – according to the logic of first- and second-order legitimacy strategies. I have examined the extent to which the Council Presidency, as one of the most influential actors in European policymaking, is able to bridge the gap between the EU and its citizens, and what impact the new Lisbon Treaty might have regarding the EU's various sources of legitimacy. I have argued that supranational and social legitimacy play significant roles, even if the Council's first-order legitimacy is derived from intergovernmental factors. Furthermore, I have argued that, even if certain reforms envisaged in the new Lisbon Treaty might undermine some of the advantages of rotation according to the logic of first-order legitimacy, there is enough room for manoeuvre for second-order legitimacy strategies to help maintain some of the advantages the rotation principle offers for reducing the gap between the EU and European citizens. As Westlake asserts, "the traditional rotating Presidency *does* matter and will continue to matter."<sup>40</sup>

Clear limits

However, it should be kept in mind that this function is clearly restricted. The EU's institutional system reflects a delicate balance between various elements of legitimisation. Each institution stands for a different facet of legitimacy: for example, while the Commission embodies the principle of output legitimacy by enabling independent experts to contribute to the policy-making process, the European Parliament is characterised by the principle of supranational legitimacy. The Council, in contrast, primarily reflects the principle of intergovernmental legitimacy, even if the expansion of majority voting, the formation of coalitions along cleavages of large/small Member States or left/right national governments, the derogation of power to partially independent agents, socialising effects or the Presidency's impact upon citizens incorporate elements of supranational and social legitimacy. As an actor on the European stage, the Presidency is legitimized only indirectly by respective national electorates. Deficits arise regarding accountability, transparency and mechanisms for contesting Council decisions. Due to the lack of direct links between the Council and the



European citizenry, the ability of the Council and the Council Presidency to bridge the EU-citizens gap is clearly limited, even if second-order legitimacy strategies can foster positive-sum effects.

Nevertheless, if the alienation of citizens from European politics is to be remedied, the focus should be on those institutions whose functional logic is most conducive to bridging the gap between the Union and European citizens. If the Lisbon Treaty enters into force – which at the current stage is far from certain – the European Parliament as the only directly legitimised European institution will gain the most in relation to other European institutions. This would significantly enhance supranational and social legitimacy, even if deficits still remain. The Council Presidency, in that case, could focus on its designated tasks and streamline its functions that are directed toward coordination, brokering, representation and management.

Supranational legitimacy  
through supranational  
institutions

## Notes

1) This paper was presented at the symposium “Whither the EU’s Shared Leadership? (Re)Assessing the Value of the European Union Council Presidency in the context of the 2007 IGC”, European Studies Centre, Oxford, October 10/11, 2007.

2) In a nutshell, the EU was accused of being undemocratic for mainly one reason: it is claimed that as more and more competences are shifted towards the supranational level, mechanisms enabling citizens to directly legitimise European politics must be strengthened.

3) E.g. Føllesdal, Andreas (2005): EU Legitimacy and Normative Political Theory, in: Cini, Michele/Bourne, Angela (Eds.): *Palgrave Advances in European Union Studies*, pp. 151-173; Hurrelmann, Achim (2005): *Verfassung und Integration in Europa. Wege zu einer supranationalen Demokratie*, Frankfurt/New York; Hurrelmann, Achim (2006): *Multi-Level Legitimacy: Conceptualizing Legitimacy Relationships between the EU and National Democracies*, TranState Working Papers 41, Sfb 597 “Staatlichkeit im Wandel – Transformations of the State”, Bremen; Liebert, Ulrike (2005): *Der Verfassungsvertrag: Ein Fortschritt für die demokratische Legitimität in der Europäischen Union?* In: Jopp, Matthias/Matl, Saskia (Eds.): *Der Vertrag über eine Verfassung für Europa. Analysen zur Konstitutionalisierung der EU*, Baden-Baden, pp. 383-410; Thalmaier, Bettina (2005): *Die zukünftige Gestalt der Europäischen Union. Integrationstheoretische Hintergründe und Perspektiven einer Reform*, Baden-Baden.

4) See Majone, Giandomenico (1996): *Regulating Europe*, London.

5) See Føllesdal 2005, p. 156.

6) Moravcsik, Andrew (2005): Is there a ‘Democratic Deficit’ in World Politics? A Framework for Analysis, in: Held, David/Koenig-Archibugi, Mathias (Eds.): *Global Governance and Public Accountability*, Oxford, pp. 212-239.

7) Easton, David (1965): *A Systems Analysis of Political Life*, New York.

8) E.g. Føllesdal 2005; Hurrelmann 2005; Maier, Matthias L./Risse, Thomas (2003): *Europeanization, Collective Identities and Public Discourses*. IDNET Final Report. [http://www.atasp.de/downloads/030625\\_risse\\_idnet.pdf](http://www.atasp.de/downloads/030625_risse_idnet.pdf); Thalmaier 2005.

9) The extremely ambitious notion of creating a single European demos capable of legitimising European politics has been replaced in recent scholarly research with the aim of linking the different national demoi and public spheres. As has been shown normatively, this in itself could significantly enhance the EU’s legitimacy (see e.g. Hurrelmann 2005, Thalmaier 2005, pp. 324-384).

10) Maier/Risse 2003, p. 2; see also Hurrelmann 2005, p. 194.

11) For further details on the requirements and implications of a European public sphere, see e.g. Franzius, Claudio/Preuß, Ulrich K. (Eds.) (2004): *Europäische Öffentlichkeit*, Baden-Baden; Trenz, Hans-Jörg (2002): *Zur Konstitution politischer Öffentlichkeit in der Europäischen Union. Zivilgesellschaftliche Subpolitik oder schaupolitische Inszenierung?*, Baden-Baden.

12) Hurrelmann 2006, p. 13.

13) Hurrelmann focuses on the legitimacy relationships between the national and the supranational level. However, it seems plausible to apply this concept to inter-institutional as well as to intra-institutional relationships.

14) Føllesdal 2005, p. 158.

15) Hurrelmann 2006, pp. 14-18.

16) Ibid., p. 14.

17) Lewis, Jeffrey (2003): *Informal integration and the supranational construction of the Council*, in: *Journal of European Public Policy* 10(6), pp. 996-1019; Lempp, Jakob/Altenschmitt, Janko (2007):

Supranationalization through Socialization in the Council of the European Union. Paper presented at the UACES Annual Conference, September 3-5, 2007, Portsmouth.

18) Hayes-Renshaw, Fiona/Wallace, Helen (2006): *The Council of Ministers*, 2nd Edition, Basingstoke; Sherrington, Philippa (2000): *The Council of Ministers. Political Authority in the European Union*, London/New York; Tallberg, Jonas (2006): *Leadership and Negotiation in the European Union*, Cambridge.

19) Tallberg, Jonas (2003): The agenda-shaping powers of the EU Council Presidency, in: *Journal of European Public Policy*, 10(1) February 2003, pp. 1-19.

20) Ibid, p. 15.

21) As Eurobarometer data show, public support for the EU in Germany rose significantly during the German EU Council Presidency 2007. In December 2006, 42 per cent stated the EU had a good image, whereas in June 2007, 52 per cent stated that the EU had a good image (see Eurobarometer 66 and Eurobarometer 67).

22) Neuhold, Christine/Vanhoonacker, Sophie/Maurer, Andreas (2003): *Reforming the EU Institutions – Challenges for the Council*, CONVEU 30 strategy paper, June 2003, Maastricht/Berlin, pp. 10-11; Vanhoonacker, Sophie/Schout, Adriaan (2003): *The Rotating Presidency of the Council of the EU: Obsolete or Obsolete?*, CONVEU 30 strategy paper, p. 9.

23) Wallace, Helen/Hayes-Renshaw, Fiona (2003): *Reforming the Council: A Work in Progress*, SIEPS report No. 9, Stockholm, p. 25.

24) For details on the proposals and reforms, see e.g. Vanhoonacker/Schout 2003, p. 3-4; Wallace/Hayes-Renshaw 2003, pp. 27-41.

25) Maurer, Andreas/Matl, Saskia (2003): *Steuerbarkeit und Handlungsfähigkeit: Die Reform des Ratssystems*, in: *integration* 4/2003, pp. 483-493, in particular: pp. 488-489.

26) Maurer, Andreas (2003): *Auf dem Weg zur Staatenkammer. Die Reform des Ministerrats*, SWP-Studie, S6, February 2003, Berlin; Maurer/Matl 2003; Vanhoonacker/Schout 2003; Wallace/Hayes-Renshaw 2003; Wessels, Wolfgang (2004): *Die institutionelle Architektur der EU nach der Europäischen Verfassung: Höhere Entscheidungsdynamik – neue Koalitionen?*, in: *integration* 3/2004, pp. 161-175.

27) Maurer/Matl 2003, p. 483.

28) For a differentiated discussion of this issue, see Bunse, Simone (2007): *Leadership by Lilliputians – Small State Council Presidencies in the European Union*. Paper prepared for Small State Workshop, University of Birmingham, 4-5 April 2007.

29) Presidency of the IGC (2007): *Draft Treaty Amending the Treaty on European Union and the Treaty Establishing the European Community*, 5 October (CIG 4/1/07 REV1), Brussels; Seeger, Sarah/Emmanouilidis, Janis (2007): *Ausweg oder Labyrinth? Analyse und Bewertung des Mandats für die Regierungskonferenz*, C·A·P Analyse 5/2007, Munich.

30) Wallace/Hayes-Renshaw 2003, p. 26.

31) Presidency of the IGC 2007.

32) Supranational and social legitimacy might be enhanced as the President is elected by QMV in the European Council and the principle of visibility and personalisation in the EU will be strengthened. However, as the President is only accountable towards the members of the European Council (Art. 9b nTEU), the intergovernmental dimension plays a crucial role.

33) The principle of Team Presidencies in the Council has already come into force on January 1st, 2007, see Council of the European Union (2006): *Council's Rule of Procedure*, Council of the European Union, General Secretariat, 16 September (2006/683/EC, Euratom), Brussels.

34) Council of the European Union (2002): *Seville European Council*, 21 and 22 June 2002, Presidency Conclusions, 24 October (13463/02), Brussels, pp. 1-2.

35) Council of the European Union 2006.

36) Westlake, Martin (2007): *Why Presidencies Still Matter*, in: *Österreichische Zeitschrift für Politikwissenschaft (ÖPZ)*, 36(2), pp. 157-165, in particular p. 164.

37) Ibid., pp. 163-164.

38) Hayes-Renshaw, Fiona (2007): *From Procedural Chore to Political Prestige: Historic Development and Recent Reforms of the Presidency of the Council*, in: *Österreichische Zeitschrift für Politikwissenschaft (ÖPZ)*, 36(2), pp. 107-123, in particular: p. 109.

39) Ibid., pp. 120-121.

40) Westlake 2007, p. 165.





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